

1976 WL 30639 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 3, 1976

*1 Mr. Quentin C. Cook
Box 236
Aynor, South Carolina

Dear Mr. Cook:

I am enclosing a copy of an earlier opinion which I believe will answer your first question, *i.e.*, whether the chairman of the new Horry County Council will be elected by the people at large or by the elected Council. That opinion concludes that the chairman will be elected by the voters at large.

The election for the members of the new County Council is to be held, pursuant to Section 14-3706 of Act No. 283 of 1975, the 'home rule' legislation, at the general election which will be conducted on November 9, 1976.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

ATTACHMENT

A SYNOPSIS OF PART I OF ACT NO. 283 OF 1975, THE 'HOME RULE' LEGISLATION, PREPARED BY THE OFFICE OF THE ATTORNEY GENERAL

1. What is the purpose of the Home Rule Act?

The purpose of the Act is to comply with the mandate which is found in Article VIII of the Constitution of this State, as amended in 1973. Article VIII states that the General Assembly shall establish criteria and procedures for the incorporation of municipalities and the readjustment of municipal boundaries and shall provide for the structure and organization, powers, duties, functions and responsibilities of municipalities and counties under alternate forms of government.

2. In general terms how will this constitutional mandate be carried out?

In the Home Rule Act the General Assembly has provided five alternate forms of county government and three alternate forms of municipal government and has outlined procedures which each county and municipality is to follow in selecting one of the alternate forms of government. The Act also provides for the transition of each county and municipality from its present form of government to its new form.

3. How does a county proceed in the selection of one of the alternate forms of county government?

There are two methods which each county may use to select a form of government. The first method is by referendum. This referendum may be called in one of the three following ways:

- 1) by an act of the General Assembly;
- 2) by resolution of the governing body of the county;
- 3) by petition of not less than ten percent of the registered electors of the county.

After the referendum has been called but before it is held, the county must hold at least two public hearings which have been advertised in a newspaper of general circulation in the county. At each of these hearings, the legislative delegation of the county is to explain each of the five alternate forms of government.

After this has been done, the referendum is to be conducted by the county election commission. Each of the five alternate forms of government must appear on the ballot, and, in the event that no form receives a favorable majority of the votes, a run-off referendum is to be held two weeks later. At the run-off, the two forms which received the highest number of votes in the first referendum will be voted on again. The governing body of the county then provides by resolution for the adoption of the form of government selected by the referendum. This resolution must then be filed with the Secretary of State and becomes effective when so filed.

*2 A referendum may also be held to determine whether the members of the governing body shall be elected from single member election districts or at large. This referendum may be called in one of the three ways stated above.

The General Assembly is to provide for the number of councilmen or commissioners depending on the form of government selected, and, if the members of the governing body are to be elected from single member election districts, the General Assembly is also to provide for the composition of those districts.

It is very important to note that if a county wishes to choose one of the five alternate forms of government in a referendum, it must do so prior to July 1, 1976. After July 1, 1976, the county can no longer make use of this method of selection.

4. What happens if a county fails to hold a referendum prior to July 1, 1976?

If a county fails to hold a referendum prior to July 1, 1976, the Act provides that that county will have that form of government which most nearly resembles the form which is in effect in the county immediately prior to that date. The phrase 'form of government in effect' includes the method of election, number, composition and terms of the governing body of the county.

The Act then states which of the five alternate forms will become effective in each county if the county fails to make the selection for itself by referendum. (Please refer to the Act itself for this county-by-county determination.)

The council-manager form of county government can be selected only by referendum. The General Assembly has determined that no county shall be given this form by the second method of selection.

5. After the newly selected form of government becomes effective, can a county change to still another form?

Yes, it can, but not until two years after the effective date of the newly selected form. After a period of two years a referendum may be called by the governing body or upon a petition of at least ten percent of the registered electors of the county for the purpose of adopting one of the other alternate forms of county government. A change to an alternate form of government can be made only if the proposed form receives a favorable vote from a majority of those voting in the referendum. After this referendum has been held, and regardless of whether or not a change in the form of government has been adopted as a result, no other such referendum can be held for a period of four years.

6. What happens to the members of the governing body who are in office at the time the newly selected form of government becomes effective?

All members of the governing bodies of the respective counties serving terms of office on the date on which a particular form of county government becomes effective shall continue to serve the terms for which they were elected or appointed. They shall continue serving until their respective successors are elected or appointed and have qualified for office.

7. What are the five alternate forms of county government?

*3 The alternate forms of county government which may be adopted pursuant to the Act are one of the following:

- (a) Council form (Article 2);
- (b) Council-supervisor form (Article 3);
- (c) Council-administrator form (Article 4);
- (d) Council-manager form (Article 5); and
- (e) Board of commissioners form (Article 6).

8. What are the powers that are given to the counties under these alternate forms of government?

The following general powers are granted to each of the alternate forms of county government except the board of commissioners form. The powers granted to the board of commissioners form and the specific powers given to each respective alternate form are discussed following this very brief outline of the general powers found in the Act.

Each of the alternate forms of county government except the board of commissioners form shall have the following enumerated powers:

- (1) to adopt, use and revise a corporate seal;
- (2) to acquire real property by purchase or gift; to lease, sell or otherwise dispose of real and personal property; and to acquire tangible personal property and supplies;
- (3) to make and execute contracts;
- (4) to exercise powers of eminent domain for county purposes except where the land concerned is devoted to a public use (please refer to the Act itself for the exception which is made for the property of certain non-profit corporations which supply water service pursuant to Act 1030 of 1964);
- (5) to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates, to make appropriations for functions and operations of the county and to provide for the regulation and enforcement of the county functions and operations specified in the Act. [Please refer to the Act itself for the enumeration of these functions and operations. § 14-3703(5)]. A special tax district may be created only as follows:
 - (a) Upon petition of a majority of the freeholders in the proposed tax district an election shall be held. A majority of the electors in that area must approve the creation of the district, the services to be rendered and the level of taxes to be levied; or
 - (b) Upon petition of fifteen percent of the freeholders in the proposed tax district a referendum and election shall be held. Separate boxes are to be provided for the votes of the freeholders and for the votes of the electors of the proposed district. A majority of the freeholders and a majority of the electors in the proposed district must approve the creation of the district, the services to be rendered and the level of taxes to be levied; or
 - (c) When a petition is submitted to the county governing body signed by seventy-five percent or more of the freeholders owning at least seventy-five percent of the assessed valuation of real property in the proposed special tax district. The petition shall contain a designation of the boundaries of the proposed special tax district, the nature of the service to be rendered and the

level of the taxes to be levied After the special tax district has been approved by one of these three methods, the special district shall be created by county ordinance.

***4** A county governing body shall not finance any service within a municipality if the county was not rendering that service on March 7, 1973, and if the municipality either provides the service, has budgeted the service or has applied for funds for the service, unless the governing body of the municipality agrees thereto.

Before general obligation bonds can be issued and a tax levied to retire those bonds at a rate different from those levied in the rest of the county, the qualified electors of the affected area must first approve, by referendum, the creation of a special tax district and the purposes for the special tax. Furthermore, the levy of any tax in a particular section of the unincorporated area of the county at rates different from those levied in other areas must be similarly approved by referendum. This referendum requirement does not apply to taxes which are levied in the entire unincorporated area of the county.

Any appropriation which would result in reorganizing, restructuring, limiting or duplicating the duties of the county sheriff's department must first be approved by the county electorate by referendum.

(6) to establish such agencies, department and positions in the county as may be necessary to provide services for public purposes, to prescribe their functions and to regulate, modify, merge, or abolish these agencies, departments and positions;

(7) to develop employment policies and procedures for all county employees except those elected directly by the people and to be responsible for the employment and discharge of county personnel in those departments where the employment authority is vested in the county government; this authority, however, does not extend to any personnel employed in departments or agencies under the direction of an elected official or an official appointed by an authority outside the county government. This section also establishes certain grievance procedures for any discharged county employee. [Please refer to the Act itself for the details of the procedure. § 14-3703(7).]

The salary of elected officials may be increased but not decreased during their term of office (the salary of the members of council and supervisors under the council-supervisor form is discussed under the explanation of that form of government);

(8) to provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed;

(9) to provide for land use and promulgate regulations pursuant thereto subject to the provisions of Act 487 of 1967.

(10) to establish and implement policies and procedures for the issuance of revenue and general obligation bonds subject to the bonded debt limitation;

(11) to grant franchises in areas outside the corporate limits of municipalities within the county in the manner provided by law for municipalities and to provide for the orderly control of services and utilities affected with a public interest, with certain exceptions;

***5** (12) to levy uniform license taxes upon persons and businesses, with certain exceptions, operating within the county but outside any municipality corporate limits;

(13) to participate in certain multi-county projects authorized by general law and to appropriate funds therefor;

(14) to enact ordinances for the implementation and enforcement of the powers granted in this section, to provide penalties, not to exceed the penalty jurisdiction of magistrate's courts, for any violations thereof and to seek and obtain compliance with such

ordinances through injunctive relief granted by courts of competent jurisdiction. No ordinance with penalty provisions shall be enacted, however, which relates to matters provided for by the general law except as authorized by such general law;

(15) to undertake and carry out slum clearance and redevelopment work, including the preparation of slum areas for reuse and the sale or other disposition of such areas to private enterprise for private uses or to public bodies for public uses, and to exercise eminent domain powers as to any property essential to a slum clearance or redevelopment plan;

(16) to conduct advisory referenda; and

(17) to exercise such other powers as may be authorized by the general law.

A county governing body cannot create any special tax district, except a watershed district, any part of which is within the corporate boundaries of a municipality, unless the municipality's governing body agrees thereto.

9. Can a county provide any of its services to and perform any of its functions within a municipality by contracting with that municipality or with any individual within that municipality?

Any county can furnish any of its services and perform any of its functions within the corporate limits of any municipality by contract with any individual, corporation, or municipal governing body. However, where such service is being provided by the municipality or has been budgeted or funds have been applied for, such service may not be rendered without the permission of the municipal governing body.

10. There are certain uses of county facilities, personnel and equipment which the General Assembly has required and will require by general law. Does the county have to pay for this?

Whenever the General Assembly provides by general law for the use of county personnel or facilities, the state agency responsible for the administration of the law must provide funds for county implementation, except in the case of construction of or improvement to county capital improvements or other permanent facilities required by general law.

11. How are the county treasurer and the county auditor selected under the alternate forms of government?

Under the council, council-supervisor and council-administrator forms, the county treasurer and auditor are elected. The treasurer and auditor serving under the old form of government serve until their successors are elected and qualify.

*6 Under the council-manager form, the county treasurer and auditor serving under the old form of government serve out their terms of office; thereafter, the council provides by ordinance for the method of selecting the treasurer and auditor.

There is no provision in this section for the selection of the treasurer and auditor under the board of commissioners form.

12. Under the Act, will the county council possess any additional powers with regard to public school education?

The Act states that it shall not be construed so as to grant any additional powers to the county council with regard to public school education; the county council, however, will have the power in certain instances to determine the method of establishing the school tax millage. The county council will determine by ordinance the method of establishing the school tax millage in all cases except the following:

(a) where boards of trustees of the school districts or the county board of education established such millage at the time the new form of government becomes effective;

(b) where the General Assembly had the authority to establish or limit the millage levied by school districts or to levy a tax for education on January 1, 1974, until and unless the General Assembly transfers that power to the school district or the county governing body; and

(c) where the millage and budget was established in meetings and referendums of the qualified electors of the respective school districts on January 1, 1975.

Subject to the exceptions listed above, in those counties containing more than one school district where all of the districts are located wholly within the boundaries of the county, the county council may by ordinance establish county-wide school tax millage.

13. Under the Act, is a county granted any powers with regard to special purpose districts?

This Act does not increase the powers of the county council over those special purpose districts which are in existence on the date the county's new form of government becomes effective. Such existing districts can be modified only by an act of the General Assembly, and any such act which dissolves a district or absorbs its functions entirely within the county government must be approved in a referendum by a majority of the qualified electors of that district voting in the referendum.

14. What method of election is to be used to elect the county council members?

Council members will be elected from single member election districts unless otherwise determined under the provisions of Section 14-3701(a) or Section 14-3701(b). (Please refer to Questions 3 and 4 above.) If the qualified electors choose a form of government by referendum but do not vote on the method of election, then the council members will be elected from single member districts.

If single member districts are used, the council member must be elected by the qualified electors of the district in which he resides. Single member districts will be reapportioned as to population within one year of the adoption by the State of each federal decennial census and the population variance among defined election districts cannot exceed ten percent.

15. What will be the terms of office for the members of the county governing body and how will vacancies be filled?

*7 Members of the governing body will be elected for terms of two years or four years as the General Assembly shall determine. Their terms will begin on the second of January next following their election. If the members are elected for four year terms, the terms will be staggered and, if necessary, in the initial election for members, one-half plus one of the members elected who receive the highest number of votes shall serve four-year terms and the remaining members shall initially serve two-year terms.

Vacancies will be filled for the unexpired terms in the manner of the original election in the next general election after the vacancy occurs or by special election if the vacancy occurs 180 days or more prior to the next general election.

16. May a member of council hold any other office while he is serving as a council member?

No member of council or supervisor shall hold any other office of honor or profit in government, except military and notary public commissions, during his elected term.

17. Who determines the salaries of the council members?

After a new form of government becomes effective, the council prescribes by ordinance the salary and compensation of its members. After this initial salary determination has been made, no ordinance changing such salaries will be effective until the date of commencement of the terms of members of the council elected at the next general election following the adoption of such changes. Members may also be reimbursed for actual expenses incurred in the conduct of their official duties.

18. How are the officers of the council selected, how often must the council meet and in what manner must their meetings be held?

The council shall select a chairman (except where that office is separately elected), a vice-chairman and such other officers as may be necessary for such terms as the council shall determine. A clerk shall be appointed to record its proceedings and perform any additional duties as the council may prescribe. The council shall meet at least once a month after public notice of the meeting has been given. More frequent meetings may be held pursuant to a schedule prescribed by the council and made public. Special meetings of the council may be called by the chairman or by a majority of the council members. All meetings are to be conducted in accordance with the general law affecting meetings of public bodies. The council determines its own rules and order of business; a journal must be kept open for public inspection and must contain the minutes of the council's proceedings.

19. In what form and by what method shall the council take action?

The council shall take legislative action by ordinance introduced by any member. All ordinances (except emergency ordinances which will be discussed later) must be read at three public meetings of the council on three separate days. There must be at least a seven-day interval between the second and third readings. All adopted ordinances are to be compiled, indexed, codified, published by title and made available for public inspection at the office of the clerk of council. The clerk of council is to maintain a permanent record of all ordinances adopted and furnish a copy of such record to the clerk of court for filing.

- *8 Public hearings must be held before council action is taken to:
- (a) adopt annual operational and capital budgets;
 - (b) make appropriations, including supplemental appropriations;
 - (c) adopt building, housing, electrical, plumbing, gas and all other regulatory codes involving penalties
 - (d) adopt zoning and subdivision regulations;
 - (e) levy taxes;
 - (f) sell, lease or contract to sell or lease real property owned by the county; and
 - (g) adopt any standard code or technical regulations (these may be adopted by reference thereto in the adopting ordinance and copies must be made available by the clerk of council for distribution or purchase). Not less than fifteen days' notice of these hearings must be given in at least one newspaper of general circulation in the county.

20. Can the county council pass emergency ordinances?

To meet public emergencies affecting life, health, safety or the property of the people, emergency ordinances may be adopted upon a two-thirds affirmative vote of the council members present. Such an ordinance is effective immediately upon its enactment without regard to any public hearing, reading, publication or notice. It automatically expires after sixty days.

21. What does the Act state with regard to the county budget and other fiscal matters?

The county council shall adopt annually operating and capital budgets, which are to include the sources of anticipated revenue, and shall provide for the levy and collection of taxes necessary to meet all budget requirements except as provided for by other revenue sources.

All county offices and departments are to make a detailed annual fiscal report to the county council at the end of the fiscal year. The council may make supplemental appropriations, specifying the source of funds for such appropriations, but it must follow the same procedures prescribed for enacting ordinances.

The council shall provide for an independent annual audit of all financial records and transactions of the county, which audit will be available for public inspection.

The council shall provide for a centralized purchasing system for procurement of goods and services required by the county government.

The fiscal year of the county government will begin on July 1st of each year and END on June 30th next following, and the fiscal year will also constitute the budget year.

22. What powers of appointment does the council have and how may it exercise these powers?

Each council shall have such appointive powers with regard to existing boards and commissions as may be authorized by the General Assembly, except as otherwise provided for by the general law and the Constitution. This authority shall not extend to school districts, special purpose districts or other political subdivisions created by the General Assembly.

Beginning January 1, 1980, the council shall provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by the general law or the Constitution. Again, this authority shall not extend to school districts, special purpose districts or political subdivisions created by the General Assembly.

23. Can a county officer or employee have a financial interest in any business that contracts with the county?

*9 Any county officer or employee who has a substantial financial interest in any business which contracts with the county for sale or lease of land, materials, supplies, equipment or services or who personally engages in such matters must make known that interest and refrain from voting upon or otherwise participating in matters relating thereto.

Any person who wilfully violates these requirements will be deemed guilty of malfeasance and upon conviction must forfeit his office or position. If the person or corporation contracting with or making a sale to the county knows either expressly or impliedly of the violation of this section, such contract or sale can be voided by the county governing body as a result of such knowledge.

SPECIAL NOTE: None of the provisions outlined above applies to the board of commissioners form of government except those provisions describing the two methods for selecting a form of county government. (Please refer to Questions 3 and 4 above.)

24. May the qualified electors of the county propose an ordinance themselves or may ordinances only be proposed by council members?

The qualified electors of any county may propose any ordinance, except an ordinance appropriating money or levying taxes, and may adopt or reject such ordinances at the polls. An ordinance proposed by the qualified electors may be submitted to the council in the form of a petition signed by a number of the qualified electors of the county which is equal to at least fifteen percent of the registered voters in the county at the time of the last regular county council election.

25. May the qualified electors petition for the repeal of an ordinance?

Within sixty days after the enactment by council of any ordinance authorizing the issuance of bonds, notes or other evidence of debt, the repayment of which requires a pledge of the full faith and credit of the county, a petition signed by a number of the

qualified electors of the county equal to at least fifteen percent of the number of qualified electors who voted in the preceding county council election may be filed with the clerk of the county council requesting that such ordinance be repealed.

If the ordinance relates to a bond issue for a public service district, then fifteen percent of the qualified electors of the district voting in the preceding county council election may submit such a petition to

26. What happens if the county council fails to act on such petitions submitted by the electors?

If the council fails to pass an ordinance as proposed by such petition, or if the council fails to repeal an ordinance as requested by such petition, then the respective issue of adoption or repeal is to be submitted to the electors not less than thirty days nor more than one year after the date the council takes its final vote on the petitions submitted by the electors.

27. After a new form of government other than the board of commissioners form has been selected, what can the county council do to aid in the orderly transition from the old form to the new?

***10** To aid in transition, each county council will:

(a) Provide by ordinance for the composition and election of a new county council pursuant to §§ 14-3701 and 14-3706 as contained in the Act. (Please refer to Questions 3, 4, 14 and 15.)

(b) Provide by ordinance for the election of county treasurers and auditors as their terms expire. Under the council-manager form, the council will provide for election or appointment of these two offices as it may determine.

(c) Take all other necessary actions to implement the form of government adopted, including but not limited to:

(1) a schedule for the election of council members and supervisors. This schedule should be based on the expiration of the terms of the persons serving unexpired terms when the new form of government becomes effective. The composition of councils does not need to conform to the numerical requirements prescribed for the form adopted until such unexpired terms are completed; and

(2) a schedule for the election of new officers for the council which shall not extend more than one year following the effective date of the new form of government.

28. What will happen to all the laws which were passed during the existence of the old form of government when the new form of government becomes effective?

All operations, agencies and offices of county government, appropriations and laws related thereto in effect on the date the new form of government becomes effective shall remain in effect until otherwise changed by ordinance. All local laws passed by the General Assembly relating to the county which are in effect at the time the new form of government becomes effective shall also remain in effect until repealed by the General Assembly, or until January 1, 1980, whichever occurs first. This restriction shall not apply to appropriation matters after the county selects a form of government other than the board of commissioners form and after it has held an initial election for council members.

29. To what extent does the county governing body provide for the operation of the county legislative delegation?

Under all forms of county government except the board of commissioners form, the county council provides office space and appropriations for the county legislative delegation, including compensation for staff personnel and necessary office supplies and equipment. The amount of such appropriation is determined by the legislative delegation and is to be included in the annual county budget. The delegation is responsible for the employment, supervision and discharge of all personnel employed in the delegation office.

30. Will county officials who were elected under the old form of government continue to be elected under the new form?

Under the council, council-supervisor and council-administrator forms of government, all county officials whose offices were elective on the effective date of the Act shall continue to be elected after one of those forms is selected, unless otherwise provided by ordinance. Auditors and treasurers will be elected in the general election for terms of four years under all forms of government, except the council manager form. (Please refer to Question 11.)

ALTERNATE FORMS OF COUNTY GOVERNMENT

COUNCIL FORM

(Form No. 1)

*11 Under this form, the responsibility for policy making and administration of county government will be vested in the county council which consists of not less than three nor more than twelve members who are qualified electors of the county. The powers and responsibilities of the council include those general powers discussed in the first part of this synopsis.

COUNCIL-SUPERVISOR FORM

(Form No. 2)

Under this form, the county council consists of not less than two nor more than twelve members who are qualified electors of the county. The supervisor will be a qualified elector of the county, elected at large; he also serves as chairman of the council and votes only to break ties. The supervisor is to serve for a term of two or four years. His salary will be determined by the council by ordinance. His salary cannot be changed during his term of office.

Except by a two-thirds vote of those members present and voting, the council cannot remove any employee whom the supervisor is empowered to appoint. Except for the purposes of inquiries and official investigations, the council cannot give any direct orders to any county officer or employee either publicly or privately. The supervisor exercises no authority over any elected officials of the county whose offices were created either by the Constitution or by general law of this State with the exception of organizational policies established by the governing body. For a listing of the specific duties and powers of the supervisor, please refer to the Act itself. The general powers of the council include those discussed in the first part of this synopsis.

COUNCIL-ADMINISTRATOR FORM

(Form No. 3)

Under this form of government, the county council consists of not less than three nor more than twelve members who are qualified electors of the county. Council members are to be elected for terms of two or four years.

The council employs an administrator who is the administrative head of the county government and is responsible for the administration of all the departments of the county government which the council has the authority to control. His term of office is at the pleasure of the council, although he may also be employed for a definite term, and the council also determines his salary. If the council decides to remove the administrator, a written statement of the reasons for the proposed removal must be given to the administrator and he is entitled to a hearing at a public meeting of the council. The removal is stayed pending the decision at the public hearing. The administrator exercises no authority over any elected officials of the county whose offices were created either by the Constitution or by the general law of the State, with the exception of organizational policies established by the governing body.

Except for inquiries and investigations, the council cannot give any direct orders to any county employee or officer who is subject to the direction of the administrator but deals with such employee or officer through the administrator.

*12 For a listing of the specific duties and powers of the administrator, please refer to the Act itself. The administrator has the duty of preparing and submitting proposed operating and capital budgets to the council. The general powers of the council include those discussed in the first part of this synopsis.

COUNCIL-MANAGER FORM

(Form No. 4)

Under this form of government, the council consists of not less than five nor more than twelve members who are qualified electors of the county. Council members are to be elected for terms of two or four years.

The council employs a manager who is the administrative head of the county government and is responsible for the administration of all the departments of the county government which the council has the authority to control. His term of office is at the pleasure of the council. The council may, in its discretion, employ the manager for a definite term. The council also determines the manager's compensation. If the council decides to remove the manager, a written statement of the reasons for the proposed removal must be given to the manager and he is entitled to a hearing at a public meeting of the council. The removal is stayed pending the decision at the public hearing. With the exception of organizational policies established by the council, the manager exercises no authority over any elected officials of the county.

Except for inquiries and investigations, the council shall not give any direct orders to any county employee or officer.

The county treasurer and auditor may be elected or appointed by council as the council may determine by ordinance. If such officials are appointed, they are subject to control by council and the manager in the same manner as other appointed county department heads.

For a listing of the specific duties and powers of the manager, please refer to the Act itself. The manager has the duty of preparing and submitting proposed operating and capital budgets to the council. The general powers of the council include those discussed in the first part of this synopsis.

COUNTY BOARD OF COMMISSIONERS FORM

(Form No. 5)

Under this form, the governing body consists of not less than four nor more than twelve commissioners as the General Assembly shall determine for each county adopting this form of government. Each commissioner is to be a qualified elector of the county.

Those counties presently electing the supervisor continue to do so and he serves as chairman of the board of commissioners. Those counties presently hiring or appointing the supervisor continue to do so.

When a county chooses this form of government, the General Assembly provides the method of election and the terms of office (either two or four years) for the supervisor and the members of the board of commissioners. If a four-year term is selected, the terms are to be staggered so that not more than one-half of the members are elected at any one election. Terms of office are to begin on the Monday following election. Vacancies are to be filled in the manner of the original election for the unexpired portion of the term only; any vacancy with less than one year of the term remaining, however, is to be filled by the Governor upon approval of a majority of the members of the legislative delegation.

*13 The board is charged with the administration of county affairs, including but not limited to:

- (a) the hearing of all budget requests and the submission of a proposed annual budget to the General Assembly;
- (b) the formulation and implementation of personnel policies with regard to certain county employees;
- (c) the purchasing of all supplies and equipment by the county;
- (d) approval of expenditures from the contingent fund as it may be established by law;
- (e) the supervision of all buildings and grounds owned by the county;
- (f) the acquisition of property by purchase or gift;
- (g) the adoption, use and alteration of a corporate seal;
- (h) the leasing or sale of county property;
- (i) the making of contracts for the county;
- (j) the exercise of the power of eminent domain;
- (k) the performance of such other acts necessary to carry out its responsibilities; and
- (l) the determination of its own rules and order of business.

The board shall meet at least once each month. Special meetings of the board may be called by the chairman or by a majority of the commissioners and all members must be notified as to the purpose, date and location of such meetings.

The board in each county may elect a clerk who is to act as secretary, be paid an annual salary and whose term of office is to be coterminous with that of the members of the board electing him.

The commissioners are to keep an account of claims audited and allowed by them in accordance with any forms and bookkeeping system prescribed by the Comptroller General.

The commissioners may administer oaths to all persons appearing before them, and may punish those persons guilty of disorderly conduct which interrupt their proceedings.

No commissioner shall be directly or indirectly interested in any contract pertaining to his duties as a commissioner and each commissioner is to give bond in the amount of \$5,000.00.

The provisions of Act 926 of 1974 shall not apply to those counties adopting this form of government.

All appointments to boards, commissions and committees in those counties adopting this form of government are to be made by the Governor upon approval of a majority of the members of the legislative delegation, including the senator or senators of the particular county.

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